

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROOSEVELT KAIRY, ET AL.,

Plaintiffs,

No. C 08-02993 JSW

v.

SUPERSHUTTLE INTERNATIONAL, INC.,
ET AL.,

Defendants.

**ORDER DENYING REVISED
MOTION TO SEAL WITHOUT
PREJUDICE**

On February 20, 2009, Plaintiffs filed an administrative motion to seal portions of several documents under seal. On February 25, 2009, Defendants submitted the declaration of Andre Y. Bates in support of Plaintiff's motion to seal. The Court issued an order denying the motion to seal without prejudice for failure to provide a specific request that establishes that the portions of the documents alleged to be privileged or protectable is narrowly tailored to seek the sealing of only sealable material. *See* N.D. Civ. L.R. 79-5(a). On March 3, 2009, Defendants submitted a revised declaration indicating the specific portions of the documents alleged to be sealable. The matter is now ripe for consideration.

Instead of seeking to have the original exhibits sealed in their entirety, Defendants now specify the particular portions they wish to designate as sealable. However, beside the repeated refrain that the portions sought to be sealed contain confidential, proprietary business information and were marked 'confidential' by SuperShuttle, Defendants' revised declaration fails to state any compelling reason why the information contained in the portions

1 of the documents are privileged or protectable as a trade secret or otherwise entitled to
2 protection under law. The revised declaration suffers from the same defect as its former
3 iteration in that there is no argument that the documents were kept confidential or that the
4 portions disputed “consist of any formula, pattern, device or compilation of information which
5 is used in one’s business, and which gives him an opportunity to obtain an advantage over
6 competitors who do not know or use it.” *Electronic Arts, Inc. v. U.S. District Court, Northern*
7 *District of California*, 298 Fed. Appx. 568, 569, 2008 WL 4726222, *2 (9th Cir. 2008); *see*
8 *also Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (holding
9 that unless a particular court record is one traditionally kept secret, a strong presumption in
10 favor of access is the starting point and the party seeking to seal a document must overcome the
11 presumption by demonstrating compelling reasons for sealing the document)..

12 Accordingly, the Court again DENIES WITHOUT PREJUDICE Plaintiffs’
13 administrative motion to seal. This ruling is without prejudice to Defendants submitting yet
14 another declaration specifically identifying those specific portions of the documents that contain
15 confidential information and indicating whether the each cited portion of the documents satisfy
16 the test for filing under seal. Again, Defendants must file in the public record a redacted
17 version of the documents, omitting only that material which is confidential. Should Defendants
18 fail to make a sufficient showing for designation portions of any documents under seal by
19 March 13, 2009, the documents shall be filed in the public record.

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21 **IT IS SO ORDERED.**

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23 Dated: March 10, 2009

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26 JEFFREY S. WHITE
27 UNITED STATES DISTRICT JUDGE
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